

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 10, 2001

In Reply Refer To:
Docket Nos. EL00-95-046,
EL00-98-030,
EL00-98-043,
EL01-68-000,
and EL01-68-007

Jones, Day, Reavis & Pogue
Attn: Clark Evans Downs
Attorney for Automated Power Exchange, Inc.
51 Louisiana Avenue, N.W.
Washington, D.C. 20001

Dear Mr. Downs:

On July 30, 2001, you filed on behalf of Automated Power Exchange, Inc. (APX) a motion for expedited clarification of the Commission's July 25, 2001 order, San Diego Gas & Electric Co. v. Sellers of Energy and Ancillary Service Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange, et al., 96 FERC ¶ 61,120 (2001) (July 25 Order), and for shortened answer period. APX asserts that its role in the California Independent System Operator and California Power Exchange markets was as an agent for others. It adds that it is a small entity with limited resources and argues that it would be inequitable to require it to participate in the hearing on refunds that is scheduled to begin on August 13, 2001. APX "requests the Commission to make clear that APX should not be liable for refunds of revenue for electricity sold in the California markets and instead that the entities on whose behalf APX acted should be liable for any refunds that may be nominally imposed on APX."

On July 31, 2001, the Commission issued a notice shortening the answer period to and including August 6, 2001. Morgan Stanley Capital Group Inc. (Morgan Stanley) filed a timely answer expressing concern that APX controls information that market participants may need to determine refunds. Thus, Morgan Stanley requests that if the Commission determines that APX need not participate directly in the hearing, that the Commission "make clear that APX retains its obligation to provides its market participants with timely, accurate and complete information throughout the proceeding at

no cost to the participants, and that APX remains a party to the proceedings listed above and subject to the Commission's jurisdiction for at least this purpose."

APX filed a reply to Morgan Stanley's answer stating that it will continue to provide information on a "best efforts" basis, but asserting that any disputes regarding costs are a matter of contract and not an issue that the Commission need now address.

Upon consideration, we have determined to leave the issue of APX's role in the hearing established in our July 25 Order, including APX's liability, if any, for refunds and APX's obligation, if any, to provide data, to the presiding administrative law judge in the first instance.

By direction of the Commission.

Linwood A. Watson, Jr.,
Acting Secretary.

cc: All Parties